

MEMORANDUM OF LAW

DATE: August 20, 1991

TO: Councilmember Judy McCarty

FROM: City Attorney

SUBJECT: Questions Regarding Defects in City Documents Pertaining to
Parks and Wildlife Initiative

This is in response to your memorandum of May 27, 1991, pertaining to the Parks and Wildlife Initiative (Parks Initiative) to which you attached John Kern's letter of May 16. Although I understand that the Parks Initiative was officially withdrawn by written notice to the City Clerk dated August 2, 1991, the issue raised by Mr. Kern pertaining to the validity of planning documents currently on file with the City Clerk needs to be resolved. Therefore, although the issue of the effect of the validity of City documents on the Parks Initiative itself is moot, I find that certain remedial measures need to be taken to ensure that records on file with the City Clerk accurately reflect the City Council's action and, thus, believe this memorandum should still be issued.

Deputy City Attorney Cristie C. McGuire thoroughly reviewed your questions and reported her findings in a memorandum to me dated July 25, 1991. A copy is attached. In light of her findings and recommendations, by copy of this memorandum and attachments to the City Clerk, I am advising him to replace what is currently on file as Document No. RR-276550 by nunc pro tunc entry with a revised Progress Guide and General Plan accurately reflecting the City Council's action of October 1, 1990 (Exhibit J to Ms. McGuire's report).

In my opinion, and in response to your specific question, there is no legal necessity for the Council to ratify its actions of October 1, 1990, with respect to the Progress Guide and General Plan. If, however, the Council desires to amend the Progress Guide and General Plan to conform to the document mistakenly placed on file, the Council would need to adopt a resolution making those amendments.

A separate memorandum of law on the other issues raised by Mr. Kern's letter are treated in a separate memorandum of law to the City Clerk. A copy of that memorandum is being sent to you with this memorandum.

JOHN W. WITT

City Attorney

CCM:jrl:011(x043.2)

Attachments

cc Charles Abdelnour, City Clerk w/att.

ML-91-63